

Appl. No. : **10/714,097**
Filed : **November 14, 2003**

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested.

Initially, the Examiner is thanked for all of his work in determining whether barcode scanners capture an image or not. The undersigned has done some additional analysis about barcode scanners. Based on this analysis, it appears that there are two different kinds of barcode scanners: one which captures an image, and another which does not, but rather uses a photodiode type element to find the barcode. See generally the background of U.S. Patent Number 6,802,452. (This patent is not listed in an information disclosure statement, since it is not prior art to this application.) Incidentally, and just to make sure the record is complete, many of the Internet printouts that were cited by the patent office also are not prior art.

Based on the new references, however, the Patent Office has convinced the undersigned that CCD-based barcode scanners do in fact capture an image. If the undersigned had asserted to the contrary in any of previous remarks, the undersigned regrets any such misstatement and takes this opportunity to correct it.

In response to this new understanding of the scope and contents of the prior art, the claims are amended herein. Claim 18 is amended to recite that the item that is used to obtain the barcode is a portable communication device with a camera and a display unit. This unit is used to obtain an image of a barcode. A portable communication unit is used to make a telephone call, and also to send information indicative of the barcode to a remote server. Information about the barcode is displayed on the portable device.

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The scope and contents of the prior art used to reject claims 18, 19 and 38-40 was Hudetz, in view of the prior art showing that CCD barcode readers are known. However, Hudetz does not teach the claimed combination: where the device that is used to obtain the barcode is a portable communication device; the camera that is on the portable communication device is used to scan a barcode; and the same device that obtains a barcode is used to make a telephone call, and also to send information indicative of the barcode to a remote server.

In essence, all of the prior art which has been cited in the case shows a barcode scanner – nothing more.

The present claims are presented in recognition of the significant advantages that a camera that already exists in a cellular phone, can be used to obtain information indicative of a barcode. These advantages are in no way taught or suggested by the cited prior art.

Claim 19 has been amended to recite using the camera at one time to obtain a barcode and at another time to take a picture. There is absolutely nothing in the cited prior art that is in any way suggestive of this feature.

The rejection rejects claim 38, stating that "the limitations have been discussed above". With all due respect, however, claim 38 defines a different limitation: the information from the barcode is used to address a website. There is absolutely nothing in Hudetz about using the information to address a website.

Each of the dependent claims should be allowable for reasons discussed above with respect to the respective independent claims, as well as on their own merits.

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Claims 19 and 38 stand rejected under 35 U.S.C. 103 as allegedly being obvious over Tracy. With all due respect, these rejections are deficient for similar reasons to those discussed above. Nothing in Tracy in any way teaches a personal communication device as claimed. Nothing in Tracy teaches sending a barcode over the same medium that is used to send the telephone call (claim 18) or obtaining using a camera to obtain a video at one time, and to obtain a barcode at another time (claim 19).

For claim 38, it is respectfully suggested that the scope of this claim is very different from the way that the Patent Office has interpreted this claim. Claim 38 defines that information in the barcode is used as the actual addressing for the website. In the language of claim 38, information in the barcode is decoded to obtain information and that information is used to access the website. In order to clarify and better emphasize the patentable features of claim 38, claim 38 is amended to recite that the information is used "as an address to access a website".

In addition, new claim 42 is added herewith, and defines aspects of a portable telephone, that has many of the features noted above.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the

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amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the above amendments and remarks, therefore, all of the claims should be in condition for allowance. A formal notice to that effect is respectfully solicited.

Please charge any fees due in connection with this response to Deposit Account No. 50-1387.

Respectfully submitted,

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